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July 2, 2012

BY HAND/ECF

Honorable Steven M. Gold  
United States Chief Magistrate Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East, Room 13D  
Brooklyn, New York 11201

Re: Rodriguez v. St. Vincent's  
Services, et al  
Civil Docket No.: 10-CV-4661

Patrick Alford v. The City of  
New York, et al  
Civil Docket No.: 11-CV-1583  
10-CV-04661

P.A., Jr. v. City of New York; et al  
Civil Docket No.: 10-CV-04661

Our File No.: 06100-16617

Dear Magistrate Gold:

This office represents the interests of Carlene Anderson, Zoila Villalta, and St. Vincent's Services, Inc. in the above referenced matter. In keeping with the Court's directive during the telephone conference of June 30, 2012 we write in connection with the upcoming status conference scheduled for July 6, 2012 to request that certain issues be discussed at that time.

Chief among the concerns as noted in the submission by counsel on behalf of the City defendants, is the number,

Hon. Steven M. Gold

-2-

July 2, 2012

frequency, and duration of the depositions of the various defense witnesses.

In compliance with the Scheduling Order of this Court, with the consent of all parties, Carlene Anderson was the first witness produced on behalf of St. Vincent's.

Excluding breaks, Ms. Anderson was subjected to an examination for five hours and 56 minutes solely by counsel for P.A., Jr., Skadden Arps. As with the other witnesses produced thus far, the deposition was not completed.

Pursuant to Federal Rule of Civil Procedure 30(d)(2) depositions are limited to one day consisting of 7 hours. We are also aware that, where there are multiple parties, consistent with Rule 26(b)(2), for a fair examination of the deponent the Court will generally allow additional time. Nevertheless, the rule mandates that "[A] party seeking a Court Order to extend the time for examination or otherwise alter the limitations is expected to show good cause to justify such an Order." See, for example, Calderon v. Symeon, No. 06 CV 1130, 2007 U.S. Dist. LEXIS 20510, at 3. (D.Conn. Fed.2, 2007) (quoting 7 James Wm. Moore, et al Moore's Federal Practice, §30-45 (3rd E.D. 2006)). As noted by counsel for the co-defendant City, the fact that there are three separate law firms with similar claims, we remain aware of the need to work with counsel to achieve an amiable resolution of this issue.

Given Ms. Anderson's role in the instant litigation, we are not adverse to producing her for additional time. We merely request that the Court clarify that 21 hours is more than slightly excessive in view of the nature and subject matter of the case.

This is a civil rights case brought under §1983. As was noted in Sabre v. First Dominion Capital, LLC. et al, 2001 U.S. Dist. LEXIS 20637; 51 Fed. R. Cerv.3d (Callahan) 1405, "this is not a complex action. Actions such as these, under Title VII and §§ 1983 and 1981, are one of the most common actions filed in this Court..." The involvement of a number of the St. Vincent's witnesses is limited and discrete. For example, Dr. Eugene Plotnick met with Ms. Moran and the infant for less than one hour. He had no further involvement with the case. It would not be surprising if the thrust of his examination before trial involved not only his prior training and current practice but his involvement with the child and the basis of his assessment. Quite frankly the examination of Dr. Plotnick should not consume

Hon. Steven M. Gold

-3-

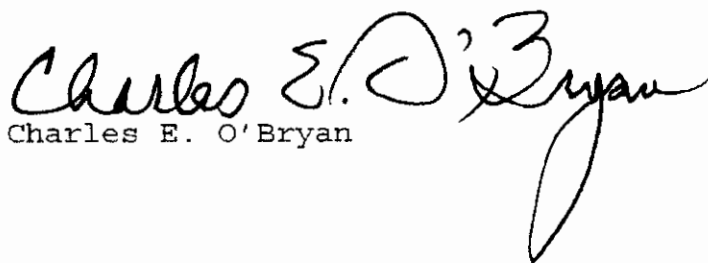
July 2, 2012

seven hours much less entitle each of the separate plaintiff's counsel to a discrete 7 hours. Similarly, Suzanne Pope, the individual who actually performed the initial intake, the administrative task of acknowledging and ultimately accepting the assignment of the two children. Hers, too, was a limited and discrete contact with the case which should not consume 5 hours total. The issue of the length and frequency of individual witness depositions was one which was not addressed by counsel herein. We, too, seek the Court's guidance.

Mindful of the fact, as noted by the City, that sufficient completion of discovery is paramount we also request the Court give this matter some consideration.

We thank the Court in advance for its consideration of this matter.

Respectfully submitted,

  
Charles E. O'Bryan

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Hon. Steven M. Gold

-4-

July 2, 2012

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